



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D.M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT
AND RECOMMENDATION OF THE DPD DIRECTOR
TO THE DIRECTOR OF SEATTLE CITY LIGHT**

Application Number: 2300869
Applicant Name: Gary Abrahams for T Mobile
Address of Proposal: 12006-P Sand Point Way NE

SUMMARY OF PROPOSED ACTION

Master Use Permit to establish use for future installation of a minor communication utility (T-Mobile) consisting of 3 antennas atop a City Light pole. Project includes 4 equipment cabinets to be located in a storage room at ground level in an existing apartment building.

The following approvals are required:

SEPA - Environmental Determination - *Chapter 25.05*, Seattle Municipal Code

Approval by the Director of Seattle City Light - SMC Section 15.32.300.C.4.b

SEPA DETERMINATION: ☐ EXEMPT ☒ DNS ☐ MDNS ☐ EIS

 ☐ DNS with conditions

 ☐ DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction.

*Early Notice DNS published 17 April 2003.

BACKGROUND DATA

Site Location and Description

The subject property is located in a two-lot NC1 zone with a 30-foot height limit. The two commercially zoned lots are separated from each other by NE 120th Street. The subject site is located on the northeast corner of the intersection of NE 120thth Street and Sand Point Way NE. The privately-owned portion of the site, where the electrical cabinets will be located, is developed with a two-story, 10-unit apartment building. The broadcast and receiving equipment installation itself will be located in the Sand Point Way NE right-of-way, approximately 40 feet north of the intersection with NE 120th Street. Sand Point Way is an arterial street in a substandard right of way (required width: 66 feet; existing width: 60 feet). There are no sidewalks along Sand Point in the project vicinity. At the moment, there is a 45-foot 10-inch high City Light utility pole in the right of way at the subject location, with a transformer, luminaire, and primary and secondary distribution wires on it.

The surrounding zoning and uses are single family residential. The only commercial use in the zone is the McIntyre Keyboard Organ & Computer store. Virtually all surrounding sites in the vicinity are developed with single family residences.

Proposal Description

The applicant proposes to remove the existing utility pole and replace it with a 60-foot 9-inch glulam pole incorporating 7-feet or so of broadcasting and receiving equipment. The existing luminaire, transformer, and distribution would be relocated on the new pole at roughly the same height as they are presently located on the pole to be replaced. The new pole would be 24 inches wide and 16.25 inches deep. The co-axial cables would be run down the pole and underground to the southwest corner of the apartment building, where they would be routed to a panel protruding approximately 6 inches from the wall of the building at the base of a main exterior access stair.

Public Comment

The public comment period for this project ended 30 April 2002. Five comment letters were received, questioning, objecting to and/or expressing concern(s) about the proposal. Concerns were voiced about possible adverse visual-aesthetic impacts of the proposed antennas on the surrounding residential neighborhood, increased traffic, and the possibility of adverse impacts on safety and on property values.

Procedural considerations:

The portion of this proposal subject to regulation by the Land Use Code consists of cable connections, a 7' high cable chase attached to the multifamily structure in the NC1 zone, a cabinet room, power connection lines, power panels and a GPS antenna. All of these would be below the height limit for the zone. Hence, the portion of the proposed use on private property would be permitted outright, subject to conformance with development standards. This means

that a permit from DPD is required. According to an understanding with Seattle City Light, whenever a permit from DPD is required, DPD shall perform a SEPA analysis if required and render a SEPA decision on behalf of Seattle City Light. In addition in this case, because Sand Point Way is an arterial, and the proposed height of the telecommunications facility is more than 60 feet, an “administrative conditional use-like process” is required for an attachment siting review by DPD to the Superintendent of Seattle City Light (SMC Section 15.32.300.C.4.b). Chapter 15.32 directs that the criteria in the Land Use Code be applied. SMC Chapter 23.57 does provide typical criteria for such reviews, of which those applicable in the neighborhood commercial zones (SMC Section 23.57.012.B) seem most appropriate to consider given that all of the proposed pole and its accoutrements would all be located in an NC1 zone and would be, in part, above the height limit.

ACU-LIKE ANALYSIS PURSUANT TO SMC Section 15.32.300.C.4.b

SMC Section 23.57.012.B.1 requires that the telecommunications installation not result in a significant change in the pedestrian or retail character of the commercial area. In this case, the established character is suburban residential rather than commercial; there are only two commercially-zoned lots in the zone, and only one of them is in commercial use. Presently trees and standard utility poles are the only environmental features having substantial height. The proposed pole, 3.7 times more bulky than the existing pole, and located on a busy street, would inevitably stand out. Hence, there would be an adverse change in character, albeit modest.

SMC Section 23.57.012.B.2 requires for such installations as that proposed that the applicant demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility. In this case, because of the co-location with City utilities, height of the telecommunications installation would be 2 feet 9 inches higher than required to serve the telecommunications network adequately. (This determination is based on an earlier applicant submission showing satisfactory functioning at the lower height, but based on incorrect assumptions about the height of the existing utility pole.) Thus, this criterion is not satisfied either. Should SCL decide to approve the installation, DPD recommends that the height of the pole be reduced by 2-feet 9-inches.

Development standards of SMC Section 23.57.012.C also apply. These clearly contemplate that the height of telecommunications facilities be limited to the lesser of 15-feet above the height of an existing nonconforming building, or 15 feet above the height limit for the zone. In this case, that would be 45 feet 9 inches - or 15 feet 9 inches less than what is proposed. The only exception to these limits is limited to circumstances of reception window obstruction. This exception applies to the height of 58 feet, the height at which there would be no reception window obstruction if the minor communication utility were not located on a City utility pole.

In this case, the applicant has kept the antennas as close to the proposed new utility pole as possible. However, the antennas will be visible because they will be mounted on the outside of the pole. It may be possible, and it would be desirable, to better integrate them into the pole in order to conceal them from view.

RECOMMENDATION TO THE DIRECTOR OF SCL BASED ON ACU-LIKE ANALYSIS PURSUANT TO SMC Section 15.32.300.C.4.b

DPD recommends that SCL should direct the applicant to explore further design refinement pursuant to the intent of SMC Section 23.57.016. For instance, the applicant should determine, with SCL's input, whether the antennas could be placed within the pole in order to conceal them from view. Should SCL decide to approve the installation, DPD recommends that the height of the pole be reduced by 2-feet 9-inches. If design refinements or alternatives are not practicable, DPD recommends approval of the application, as the proposed design would represent acceptable effort to minimize the appearance of the antennas.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated 25 March 2003. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-term Impacts

No substantial adverse impacts anticipated. No conditioning in this regard is warranted.

Long-term Impacts

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

Seattle Municipal Code Section 25.10.300 contains Electromagnetic Radiation standards with which the proposal must comply. The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300.

Height, bulk and scale

The policy background in SMC Section 25.05.675.G.1.b notes that mapping of the City's zoning designations cannot always provide a reasonable transition in height, bulk and scale between development in adjacent zones. The subject site appears to be one such location, where only two bona fide parcels are designated commercial (NC1-30), and of the two, only one actually has any commercial use operating. (That one is not the subject site, where a modest multifamily apartment building is located.) In this location, transition is not well provided for by the zone boundary lines. Consequently, the pole will not tend to disappear amidst a range of non-residential appearing buildings and other structures and appurtenances. Fortunately, due to orientation of certain houses and presence of numerous substantial trees, the number of adversely impacted houses (as determined by a walking survey of the area by the undersigned planner) will be approximately six. They will be 12015 Sand Point Way NE, 12023 Bartlett Avenue NE, 4212 and 4216 NE 120th Street, and 12003 and 12013 Exeter Avenue NE. Each of these properties will be subjected to prominent exposure to the proposed nearly 61-foot high installation; indeed, because they can already see the existing pole and luminaire, they will also see all of the substantial additional utility pole volume as well. None of the occupants of these houses commented on the proposal. However, six other individuals (i.e. in houses not deemed to be adversely impacted by the bulk of the proposal) did express concerns about visual impacts, which are to be found in the 5 comment letters.

SMC Section 25.05.675.G.2.a directs that height, bulk and scale be compatible with the goals and policies annunciated in Section C of the Land Use Element of the Comprehensive Plan. Such goals and policies address both single family and commercial areas; hence, some sort of balancing between them is required. Because of the uniquely small extent of the subject commercial zone and the uniquely non-commercial use of the preponderance of the commercially-zoned properties in it, it would seem reasonable to more highly emphasize the single family goals and policies, which call for preservation and protection of single family areas, and separately call for the preservation of the character of such areas. Hence, DPD concludes that mitigation of height bulk and scale impacts is warranted.

A mitigating factor - which exists for the majority of houses in the area - is the presence of trees - often large ones - in the yards of the various houses. Many of the trees mitigate visual impacts for several houses other than the one on whose lot the tree is situated. The maintenance of these trees is important for the long-term mitigation of the visual impacts of this project. All of the trees appear to be in good health, and certainly none appear in imminent danger of dying. It seems reasonable to conclude that they would provide reasonable long-term mitigation for those properties that benefit from them. Again, at least six properties do not.

Reasonable mitigation of height, bulk and scale in this case require that the height and cross-sectional dimensions of the proposed facility be reduced to a minimum. This determination is

best made by the Director of SCL in the context of administering the standards of SMC Section 15.32.300, and as recommended by the DPD in the analysis above. No additional conditioning pursuant to SEPA authority is warranted.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

SEPA CONDITIONS

None.

Signature: (signature on file) Date: February 12, 2004
Paul Janos, Land Use Planner
Department of Planning and Development
Land Use Services